

FEB 4 1994

"Specialists in TV Time Buys"

FCC - MAIL ROOM



The Honorable Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554
February 3, 1994

Re: Limitations on Commercial Time on Television Broadcast
Stations, MM Docket No. 93-254

Dear Mrs. Searcy:

I am writing to oppose the suggestion in the Commission's Notice of Inquiry that time limitations be reimposed on the amount of commercial matter broadcast by television stations.

New Day Marketing Ltd. specializes in television time buying for infomercials and was established in 1987 to answer the need for a media buying service in direct-response program time. Over the years the company's client list has included Soloflex, SyberVision, NordicTrack, JS&A, and Blue Coral, Inc. to name only a few. According to Connie Chung's recent CBS Special Report 3 out of 4 American's watch an infomercial per week. On behalf of its clients New Day Marketing Ltd. has purchased in excess of 75 million dollars of television time over the last eight years.

The FCC's 1984 decision was premised on the belief that there would be an expansion in the number of information sources available to viewers. This has taken place and the rate of expansion is now about to grow exponentially over the next few years. With this expansion of sources available, the viewer will determine the amount of commercial programming they experience by individual choice on a daily basis. The FCC believed that the market would respond to the relaxation of constraints on commercial programming by developing new commercial offerings.

Since the FCC's predictions have proved true, at this late date the government should not attempt to turn back the clock and reimpose a scheme of commercial time limits that made sense, if ever, only at a time when few video outlets were available.

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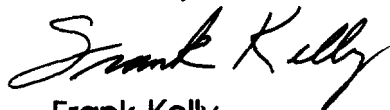
Furthermore, in response to the 1984 decision, there has been great innovation in the format and content of commercial programming. These developments might never have occurred had the FCC continued trying to determine the appropriate amount or type of commercial programming through fixed time limits. Infomercials must compete for viewers, as do all programs. Despite their commercial nature they have developed a sizeable and ever expanding audience demonstrating that there is a significant consumer need that would not be addressed if time limits were reimposed.

By providing substantial revenues to broadcast stations, program-length commercials help support free, over-the-air television. Over the last eight years New Day Marketing Ltd. has purchased in excess of 50 million dollars of broadcast television time.

In an era where the number of video channels available to consumers is increasing rapidly, there is no reason why the FCC should impose a content-based discrimination against the broadcast of entertaining and informative commercial matter, simply because it is presented in program-length format. Many view the infomercial as a legitimate and increasingly popular form of commercial speech. Suggestions that the FCC impose time limits that would restrict the showing of infomercials raise sensitive First Amendment considerations.

For these reasons, we at New Day Marketing Ltd. believe as a general matter that the Commission should not initiate a rulemaking to consider reimposing time limits on the broadcast of commercial matter. In particular, we believe that no showing has been made of any justification for imposing any limits on the running of program-length commercials by broadcast stations.

Sincerely,

A handwritten signature in cursive script that reads "Frank Kelly".

Frank Kelly
Vice President
Client Services